

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Iowa Code chapter 68A provides that media organizations that discuss candidates and public affairs do not trigger the campaign laws. Iowa Code section 68A.503(2)"d" directs the Iowa Ethics and Campaign Disclosure Board to adopt a rule prohibiting the owner, publisher, or editor of a sham newspaper from using the newspaper to promote that person's candidacy for public office. The proposed amendment establishes the factors the Board will use in determining whether a publication should be entitled to the press exception or should be treated as a sham newspaper that triggers the campaign laws.

The proposed amendment does not contain a specific waiver provision. However, because the proposed amendment sets out factors to be used in making a decision, input from the affected party would be part of that decision. In addition, the Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendment on or before April 28, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68A.503(2)"d."

The following amendment is proposed.

Adopt the following new rule 351—4.48(68A):

**351—4.48(68A) Sham newspapers not entitled to press exception.** Iowa Code chapter 68A provides that when a media organization discusses candidates and public affairs, the media organization does not trigger the campaign laws. Iowa Code section 68A.503(2)"d" directs the board to adopt a rule prohibiting the owner, publisher, or editor of a sham newspaper from using the sham newspaper to promote in any way the candidacy of the person for public office. In determining whether or not a publication is entitled to the press exception or is a sham newspaper that triggers the campaign laws, the board will consider the following factors:

1. Whether the publication is published and made available on a regular schedule or interval;
2. The proximity to the election in which the candidates and public affairs are discussed;
3. Whether the publication contains news items and articles of opinion of a general character separate from discussions concerning candidates and public affairs;
4. How widely the publication is circulated or is otherwise made available to the public in comparison to a targeted audience for potential campaign purposes;
5. Whether the publication discusses all candidates for a particular election or otherwise gives all candidates equal space; and
6. Whether the publication expressly advocates for the candidacy of the owner, publisher, or editor of the publication or for the defeat of a campaign opponent of the owner, publisher, or editor of the publication.

This rule is intended to implement Iowa Code section 68A.503(2)"d."